

Baughman did not comply with this, his alleged agreement, but, on the contrary, on the 11th of September, 1848, three months before the maturity of the note, the firm of which he was a member borrowed from the defendant, Lee, twenty-one thousand dollars, and lodged and hypothecated with him as security for the re-payment of the money, this note, with many others, a list of which is given in his answer. Of these notes, it appears some have matured and remain unpaid, and that others have not yet matured, so that a considerable portion of the money loaned is still due.

There is nothing to show that Lee, the defendant, had any knowledge or any reason to suspect when he received this note as stated, that it had been procured by fraud or misrepresentation, or was without consideration; and in his answer he expressly denies that he had any such knowledge or suspicion; and, denying all belief in the allegations of the bill charging such fraud and want of consideration, the defendant avers himself to be a *bona fide* holder of the note, for a full and valuable consideration and without notice.

The bill charges, that the note was pledged by Baughman, Nicholson and Cannon, to the defendant, Lee, to secure the payment of a large sum of money which they had borrowed of him, and upon which he charged and exacted from said firm, usurious interest. The bill does not allege that the defendant knew of the circumstances under which the note was given to Baughman, nor does it charge that the complainants gave Lee notice thereof, until after he had received the same from the payees as security for the loan made to them; nor is there any allegation that steps were taken by the complainants, by publication or otherwise, to caution the public against taking the note. It is charged, that to secure the money borrowed by Baughman, Nicholson and Cannon, from the defendant, they pledged with him securities to a larger amount than the loan, and the bill insists that Lee is bound, before he can proceed against the complainants upon their note, to apply and exhaust the other securities.

In answer to this charge, the respondent says, that several of